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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,459	09/01/2006	Ko Watanabe	10517/345	2190
23838	7590	11/12/2009	EXAMINER	
KENYON & KENYON LLP			RESTIFO, JEFFREY J	
1500 K STREET N.W.				
SUITE 700			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20005			3618	
			MAIL DATE	DELIVERY MODE
			11/12/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/591,459	WATANABE ET AL.	
	Examiner	Art Unit	
	Jeffrey J. Restifo	3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 September 2009.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 and 3-12 is/are pending in the application.
 - 4a) Of the above claim(s) 3 and 4 is/are withdrawn from consideration.
- 5) Claim(s) 9-12 is/are allowed.
- 6) Claim(s) 1 and 5-8 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 01 September 2006 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>9/29/09</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Election/Restrictions

1. Claims 3 and 4 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species A, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 3/23/09.
2. Applicant's election with traverse of Species B in the reply filed on 3/23/09 is acknowledged. The traversal is on the ground(s) that searching both species can be made without serious burden. This is not found persuasive because the structural differences between the species creates a burden for searches in supports and bracket art.

The requirement is still deemed proper and is therefore made FINAL.

3. This application contains claims 3 and 4 drawn to an invention nonelected with traverse in the reply filed on 3/23/09. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Tsuchida et al. (US 5,476,151 A).

7. Tsuchida et al. discloses a mounting structure for a battery 22 comprising a longitudinal frame with side portions 16 with deformable portions or kick-up portions able to deform vertically, and a fixing member 56 with inclined portion for securing the battery to the upper surface of the frame, as shown in figures 12-16.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsuchida et al., as applied to claims 1 and 9 above, and further in view of Kawasaki et al. (US 7,144,039 B2).

Tsuchida et al. does not disclose the battery support in the trunk. It would have been obvious to one having ordinary skill in the art at the time of the invention to have

located the battery collision support frame of Tsuchida et al. in a trunk of a vehicle in order to protect batteries that are located in the rear of a vehicle. Tsuchida et al. does not disclose a bridge portion extending between the fixing members. Kawasaki et al. does disclose a collision support system comprising a transverse bridge member 25 extending between frames 12 and located behind and above a rearward, bottom surface of the battery, as shown in figures 1-5. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the battery support of Tsuchida et al. with the bridge member of Kawasaki et al. in order to prevent the frames and/or fixing members from crushing inwards towards each other in a collision.

Allowable Subject Matter

10. Claims 9-12 are allowed.

Response to Arguments

11. Applicant's arguments filed 9/29/09 have been fully considered but they are not persuasive. With respect to the applicant's arguments concerning claim 1, the examiner takes the position that Tsuchida et al. discloses the battery as moving vertically and increase a space below and rearward the battery 22, as shown in figure 13 .

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey J. Restifo whose telephone number is (571) 272-6697. The examiner can normally be reached on Monday-Thursday 10am-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (571) 272-7742. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jeffrey J Restifo
Primary Examiner
Art Unit 3618

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